

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Petition of Bell Atlantic)
For Forbearance from)
Section 272 Requirements in Connection)
With National Directory Assistance)
Services)

CC Docket No. 97-172
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APR 3 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF SBC COMMUNICATIONS INC. RELATED TO APPLICATION FOR REVIEW

Excell Agent Services. L.L.C. (Excell) on January 21, 2000 filed an Application for Review of the Common Carrier Bureau's Memorandum Opinion and Order.¹ The sole basis for this Application is Excell's curious argument that Bell Atlantic, in charging third parties the same amounts it imputes to itself for directory assistance listings, is imposing charges which are "unjustly and unreasonably discriminatory" and for this reason, the forbearance criteria set forth under Section 10 of the Telecommunications Act have not been fulfilled.² The Commission in prior proceedings has itself made the charging of such rates a condition in granting forbearance.³ To argue that the Commission should now reverse the carefully reasoned decision of the Common Carrier

¹In the Matter of the Petition for Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services, Memorandum Opinion and Order, CC Docket No. 97-172), (rel. December 22, 1999) (Forbearance Order).

²Excell Application, p. 2.

³E.g., In the Matter of Bell Operating Companies; Petitions for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, To Certain Activities, CC Docket No. 96-149, 13 FCC Rcd 2627 (1998).

Comments of SBC Communications Inc.
Related to Application for Review

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Bureau (Bureau) on these grounds is unwarranted and unsupported by the record in this proceeding.

I. THE COMMON CARRIER BUREAU WAS CORRECT IN FINDING THAT BELL ATLANTIC'S PROVISIONING OF NATIONAL DIRECTORY ASSISTANCE MET THE SECTION 10 REQUIREMENTS FOR FORBEARANCE.

Section 10 of the Telecommunications Act⁴ sets forth a three-prong test for forbearance by the Commission. The focus of the Common Carrier Bureau was appropriately whether allowing Bell Atlantic to provide national directory assistance (NDA) through its local exchange companies, rather than through a separate subsidiary, met these conditions. This inherent precept is ignored by Excell. Rather, Excell argues that the imputation process ordered by the Common Carrier Bureau, by its very nature, means that Bell Atlantic cannot possibly meet the forbearance criteria. How this "insurmountable barrier" would be eliminated by the provisioning of NDA through a separate subsidiary is never explained. Nor does Excell even bother to make the argument that a separate subsidiary is necessary under the law.

Whatever Excell's individual complaints are with regard to the amount charged by Bell Atlantic for directory listings in general, such paranoia does not supplant the Common Carrier Bureau's analysis of the record. The record as a whole supported the Bureau's action. The concerns raised by Excell in this Application are the same as those

⁴47 U.S.C.160.

it made in its earlier Comments in this proceeding.⁵ These Comments were duly considered by the Bureau and assessed in connection with its review.

The Common Carrier Bureau correctly held that such concerns did not necessitate the rejection of Bell Atlantic's Petition or the imposition of additional requirements. Moreover, it should be noted that in its Comments before the Common Carrier Bureau, Excell contended, not that the Bell Atlantic Petition for Forbearance should be rejected, but that the Commission should develop additional requirements related to directory listing information in a separate on-going proceeding⁶ and "apply that safeguard to the RBOCs in this proceeding (on a retroactive basis if necessary)."⁷ Indeed, Excell in its Comments urged the Bureau to grant Bell Atlantic's Petition, provided any safeguards established in the DA Access Proceeding would be applied to Bell Atlantic and any other RBOC granted forbearance in this regard.⁸

The fact that this separate proceeding has not resulted to date in the requirements desired by Excell does not warrant the modification of the Bureau's Order to include an unspecified audit mechanism as Excell urges. The record in this proceeding fails to support such action. Excell itself has failed to delineate the parameters of such relief and,

⁵Comments of Excell Agent Services, L.L.C., filed November 12, 1999 (Excell Comments).

⁶In the Matter of Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Provision of Directory Listing Information Under the Communications Act of 1934, As Amended, CC Docket No. 99-272. (DA Access Proceeding.

⁷Excell Comments, p. 3.

⁸Excell Comments, p. 10

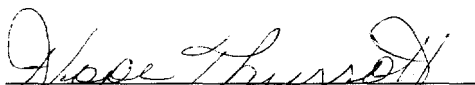
apart from general accusations and speculation, does not provide sufficient evidence to warrant such a requirement.

CONCLUSION

The Bureau's Forbearance Order should stand, unmodified. The concerns raised by Excell were duly considered by the Bureau prior to its granting for forbearance. Indeed, at that time, Excell did not view these concerns as necessitating the rejection of Bell Atlantic's Petition. Moreover, it is unclear what action now is being sought by Excell: the rejection of Bell Atlantic's Petition as failing to meet the forbearance criteria set forth in Section 10 or the modification of the Bureau's Forbearance Order to include unspecified additional "safeguards" with respect to the provisioning of directory listing information. In any event, neither of these actions is supported by the record and the Commission should deny Excell's Application for Review.

Respectfully Submitted,

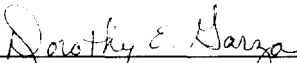
SBC Communications Inc.

By: 
Alfred G. Richter, Jr.
Roger K. Toppins
Hope Thurrott
11th Floor
1401 "I" Street, NW
Washington, DC 20005
(202) 326-8891

Its Attorneys

CERTIFICATE OF SERVICE

I, Dorothy E. Garza, do hereby certify that a true and correct copy of the above and foregoing petitions served on 3rd day of April 2000, to the following individuals:



Dorothy E. Garza

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-B204F
Washington, DC 20554

Janice M. Myles
Federal Communications Commission
445 12th Street, SW, Room 5-C327
Washington, DC 20554

Lawrence Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Robert Atkinson
Federal Communications Commission
445 12th Street, SW, Room 5-C356
Washington, DC 20554

Carol E. Matthey
Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-C207

Audrey White
Federal Communications Commission
445 12th Street, SW, Room 5-C315
Washington, DC 20554

Thomas Power
Senior Legal Advisor
Office of Commissioner William E. Kennard
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Bryan Tramont
Legal Advisor
Office of Commissioner Harold Furchgott-Roth
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Ari Fitzgerald
Legal Advisor
Office of Commissioner William E. Kennard
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Dan Connors
Legal Advisor
Office of Commissioner Susan P. Ness
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Karen Gulick
Legal Advisor
Office of Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Linonlocal Kinney
Legal Advisor
Office of Commission Susan P. Ness
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Kyle Dixon
Legal Advisor
Office of Commissioner Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Peter Tenhula
Senior Legal Advisor
Office of Commissioner Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

International Transcription Service
1231 20th Street, NW
Washington, DC 20036

Arthur H. Harding
Cara E. Sheppard
Fleischman and Walsh, LLP
1400 16th Street, NW
Washington, DC 20036

James H. Bolin, Jr.
AT&T
Room 1130M1
295 North Maple Ave.
Basking Ridge, NJ 07920

Mark C. Rosenblum
AT&T
Room 3252J1
295 North Maple Ave.
Basking Ridge, NJ 07920

A. Kirven Gilbert, III
M. Robert Sutherland
Theodore R. Kingsley
BellSouth
Suite 1700
1155 Peachtree Street, NE
Atlanta, GA 30309-3610

Lisa B. Smith
MCI WorldCom
1801 Pennsylvania Ave, NW
Washington, DC 20006

John M. Goodman
Bell Atlantic Corporation
1300 I Street, NW
Washington, DC 20005

Vicki S. Pearson
Liz Petroni
Teltrust, Inc.
632 South 3000 East
Salt Lake City, UT 84121

Loretta Garcia
Counsel to Teltrust, Inc.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave, NW
Suite 800
Washington, DC 20036

J. Carl Wilson
Lisa B. Smith
Mary Brown
Attorneys for MCI WorldCom
1800 Pennsylvania Ave, NW
Washington, DC 20006

Gerald J. Waldron
Mary Newcomer Williams
Attorneys for INFONXX, Inc.
Covington & Burling
1201 Pennsylvania Ave, NW
PO Box 7566
Washington, DC 20044